

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WESLEY POLLARD, SR.)	
)	
Plaintiff)	Case No. 1:20-cv-00194-SPB-RAL
)	
vs.)	SUSAN PARADISE BAXTER
)	UNITED STATES DISTRICT JUDGE
SUPERINTENDENT MICHAEL)	
CLARK, et al.,)	RICHARD A. LANZILLO
)	UNITED STATES MAGISTRATE JUDGE
Defendants)	
)	ECF No. 25

ORDER DENYING PLAINTIFF'S MOTION FOR DISCOVERY

Plaintiff Wesley Pollard, Sr., filed a "Motion for Documentary and Physical Evidence of Videotape" on May 28, 2021. ECF No. 25. The motion is DENIED because discovery at this time is premature.

The Court's Standing Practice Order for Pro Se Civil Rights Cases, which was issued to the parties when the case commenced, states the following:

If a Fed. R. Civ. P. 12(b), (e), or (f) motion is filed, the parties should wait to conduct any discovery until after the motion has been ruled on by the court. If the case survives these motions, then the defendants will file an answer to the complaint in accordance with Fed. R. Civ. P. 12(a)(4).

ECF No. 7, ¶ 5. The Defendants filed their motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6) on March 10, 2021. ECF No. 17. Thereafter, Plaintiff filed his motion for discovery. In addition to failing to comply with the Court's Order, the Plaintiff is not entitled to discovery before the resolution of a timely filed motion to dismiss for failure to state a claim. *See Bush v. Dep't of Human Servs.*, 642 Fed. Appx. 84 (3d Cir. 2016).

Because of the pending motion to dismiss, discovery will not commence in this case unless the Court denies the motion. The Standing Practice Order specifies:

After an answer has been filed, the court will enter a case management order specifying deadlines for discovery and the filing of summary judgment motions under Fed. R. Civ. P. 56.

ECF No. 7, ¶ 6. For these reasons, Plaintiff's motion is denied.

So Ordered.

Dated: June 14, 2021



RICHARD A. LANZILLO
United States Magistrate Judge